

May 13, 2002, 116 Stat. 143, which is classified principally to this chapter. For complete classification of title I to the Code, see References in Text note set out under section 7901 of this title and Tables.

CHAPTER 107—RENEWABLE ENERGY RESEARCH AND DEVELOPMENT

- Sec.
8101. Definitions.
8102. Federal procurement of biobased products.
 (a) Application of section.
 (b) Procurement subject to other law.
 (c) Procurement preference.
 (d) Specifications.
 (e) Guidelines.
 (f) Office of Federal Procurement Policy.
 (g) Procurement program.
 (h) Labeling.
 (i) Limitation.
 (j) Inclusion.
 (k) Funding.
8103. Biorefinery development grants.
 (a) Purpose.
 (b) Definitions.
 (c) Grants.
 (d) Eligible entities.
 (e) Competitive basis for awards.
 (f) Cost sharing.
 (g) Consultation.
 (h) Authorization of appropriations.
8104. Biodiesel fuel education program.
 (a) Establishment.
 (b) Eligible entities.
 (c) Consultation.
 (d) Funding.
8105. Energy audit and renewable energy development program.
 (a) In general.
 (b) Eligible entities.
 (c) Merit review.
 (d) Use of grant funds.
 (e) Cost sharing.
 (f) Use of cost-share funds.
 (g) Consultation.
 (h) Reports.
 (i) Authorization of appropriations.
8106. Renewable energy systems and energy efficiency improvements.
 (a) In general.
 (b) Eligibility.
 (c) Cost sharing.
 (d) Interest rate.
 (e) Consultation.
 (f) Funding.
8107. Hydrogen and fuel cell technologies.
 (a) In general.
 (b) Dissemination of information.
8108. Continuation of bioenergy program.
 (a) Definitions.
 (b) Bioenergy Program.
 (c) Funding.
8109. Research, extension, and educational programs on biobased energy technologies and products.
 (a) Purposes.
 (b) Definitions.
 (c) Establishment.
 (d) Grants to centers.
 (e) Use of funds.
 (f) Plan.
 (g) Grants to other land-grant colleges and universities.
 (h) Grant information analysis center.
 (i) Annual reports.
 (j) Authorization of appropriations.

§ 8101. Definitions

In this chapter:

(1) Administrator

The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) Biobased product

The term “biobased product” means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products or renewable domestic agricultural materials (including plant, animal, and marine materials) or forestry materials.

(3) Biomass

(A) In general

The term “biomass” means any organic material that is available on a renewable or recurring basis.

(B) Inclusions

The term “biomass” includes—

- (i) agricultural crops;
- (ii) trees grown for energy production;
- (iii) wood waste and wood residues;
- (iv) plants (including aquatic plants and grasses);
- (v) residues;
- (vi) fibers;
- (vii) animal wastes and other waste materials; and
- (viii) fats, oils, and greases (including recycled fats, oils, and greases).

(C) Exclusions

The term “biomass” does not include—

- (i) paper that is commonly recycled; or
- (ii) unsegregated solid waste.

(4) Procuring agency

The term “procuring agency” means—

- (A) any Federal agency that is using Federal funds for procurement; or
- (B) any person contracting with any Federal agency with respect to work performed under the contract.

(5) Renewable energy

The term “renewable energy” means energy derived from—

- (A) a wind, solar, biomass, or geothermal source; or
- (B) hydrogen derived from biomass or water using an energy source described in subparagraph (A).

(6) Rural small business

The term “rural small business” has the meaning that the Secretary shall prescribe by regulation.

(7) Secretary

The term “Secretary” means the Secretary of Agriculture.

(Pub. L. 107–171, title IX, §9001, May 13, 2002, 116 Stat. 475; Pub. L. 109–58, title IX, §943(a)(1), Aug. 8, 2005, 119 Stat. 880.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title IX of Pub. L. 107–171, May 13, 2002, 116 Stat. 475, which enacted this chapter and

amended section 6711 of this title and provisions set out as a note under section 7624 of this title. For complete classification of title IX to the Code, see Tables.

AMENDMENTS

2005—Pars. (4) to (7). Pub. L. 109-58 added par. (4) and redesignated former pars. (4) to (6) as (5) to (7), respectively.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-199, div. A, title VII, §778(a), Jan. 23, 2004, 118 Stat. 41, provided that: “This section [enacting section 8109 of this title] may be cited as the ‘Sun Grant Research Initiative Act of 2003’.”

BIOMASS RESEARCH AND DEVELOPMENT

Pub. L. 106-224, title III, June 20, 2000, 114 Stat. 428; as amended by Pub. L. 107-171, title IX, §9008, May 13, 2002, 116 Stat. 483; Pub. L. 108-148, title II, §201, Dec. 3, 2003, 117 Stat. 1901; Pub. L. 109-58, title IX, §941, Aug. 8, 2005, 119 Stat. 873, known as the Biomass Research and Development Act of 2000, and formerly set out as a note under this section, provided temporary authority for the Secretaries of Agriculture and Energy to promote biomass research and development. As amended by Pub. L. 109-58, the program became permanent, and title III of Pub. L. 106-224 was transferred to chapter 112 (§8601 et seq.) of this title.

§ 8102. Federal procurement of biobased products

(a) Application of section

Except as provided in subsection (c) of this section, each procuring agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds \$10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was \$10,000 or more.

(b) Procurement subject to other law

Any procurement, by any procuring agency, which is subject to regulations of the Administrator under section 6962 of title 42, shall not be subject to the requirements of this section to the extent that such requirements are inconsistent with such regulations.

(c) Procurement preference

(1) Except as provided in paragraph (2), after the date specified in applicable guidelines prepared pursuant to subsection (e) of this section, each procuring agency which procures any items designated in such guidelines shall, in making procurement decisions, give preference to such items composed of the highest percentage of biobased products practicable or such items that comply with the regulations issued under section 6914b-1 of title 42, consistent with maintaining a satisfactory level of competition, considering such guidelines.

(2) FLEXIBILITY.—Notwithstanding paragraph (1), a procuring agency may decide not to procure such items if the procuring agency determines that the items—

(A) are not reasonably available within a reasonable period of time;

(B) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

(C) are available only at an unreasonable price.

(3) After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting offices shall require that, with respect to biobased products, vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.

(d) Specifications

All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by procuring agencies shall, within one year after the date of publication of applicable guidelines under subsection (e) of this section, or as otherwise specified in such guidelines, assure that such specifications require the use of biobased products consistent with the requirements of this section.

(e) Guidelines

(1) In general

The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall—

(A) designate those items which are or can be produced with biobased products and whose procurement by procuring agencies will carry out the objectives of this section;

(B) set forth recommended practices with respect to the procurement of biobased products and items containing such materials and with respect to certification by vendors of the percentage of biobased products used; and

(C) provide information as to the availability, relative price, performance, and environmental and public health benefits, of such materials and items and where appropriate shall recommend the level of biobased material to be contained in the procured product.

(2) Considerations

In making the designation under paragraph (1)(A), the Secretary shall, at a minimum, consider—

(A) the availability of such items; and

(B) the economic and technological feasibility of using such items, including life cycle costs.

(3) Final guidelines

The Secretary shall prepare final guidelines under this section within 180 days after May 13, 2002.

(f) Office of Federal Procurement Policy

The Office of Federal Procurement Policy, in cooperation with the Secretary, shall implement the requirements of this section. It shall be the responsibility of the Office of Federal Procurement Policy to coordinate this policy with other policies for Federal procurement to implement

the requirements of this section, and, every two years beginning in 2003, to report to the Congress on actions taken by procuring agencies and the progress made in the implementation of this section, including agency compliance with subsection (d) of this section.

(g) Procurement program

(1) Within one year after the date of publication of applicable guidelines under subsection (e) of this section, each Federal agency shall develop a procurement program which will assure that items composed of biobased products will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.

(2) Each procurement program required under this subsection shall, at a minimum, contain—

(A) a biobased products preference program;

(B) an agency promotion program to promote the preference program adopted under subparagraph (A); and

(C) annual review and monitoring of the effectiveness of an agency's procurement program.

(3) In developing the preference program, the following options shall be considered for adoption:

(A) CASE-BY-CASE POLICY DEVELOPMENT.—Subject to the limitations of subsection (c)(2)(A) through (C) of this section, a policy of awarding contracts to the vendor offering an item composed of the highest percentage of biobased products practicable. Subject to such limitations, agencies may make an award to a vendor offering items with less than the maximum biobased products content.

(B) MINIMUM CONTENT STANDARDS.—Minimum biobased products content specifications which are set in such a way as to assure that the biobased products content required is consistent with the requirements of this section, without violating the limitations of subsection (c)(2) (A) through (C) of this section.

Federal agencies shall adopt one of the options set forth in subparagraphs (A) and (B) or a substantially equivalent alternative, for inclusion in the procurement program.

(h) Labeling

(1) In general

The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label "U.S.D.A. Certified Biobased Product".

(2) Eligibility criteria

Within one year after May 13, 2002, the Secretary, in consultation with the Administrator, shall issue criteria for determining which products may qualify to receive the label under paragraph (1). The criteria shall encourage the purchase of products with the maximum biobased content, and should, to the maximum extent possible, be consistent with the guidelines issued under subsection (e) of this section.

(3) Use of the label

The Secretary shall ensure that the label referred to in paragraph (1) is used only on prod-

ucts that meet the criteria issued pursuant to paragraph (2).

(4) Recognition

The Secretary shall establish a voluntary program to recognize Federal agencies and private entities that use a substantial amount of biobased products.

(i) Limitation

Nothing in this section shall apply to the procurement of motor vehicle fuels or electricity.

(j) Inclusion

Not later than 90 days after August 8, 2005, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall establish procedures that apply the requirements of this section to procurement for the Capitol Complex.

(k) Funding

(1) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(2) Funding for testing of biobased products

(A) In general

Of the funds of the Commodity Credit Corporation, the Secretary shall use \$1,000,000 for each of fiscal years 2002 through 2007 to support testing of biobased products to carry out this section.

(B) Use of funds

Amounts made available under subparagraph (A) may be used to support contracts or cooperative agreements with entities that have experience and special skills to conduct such testing.

(C) Priority

At the discretion of the Secretary, the Secretary may give priority to the testing of products for which private sector firms provide cost sharing for the testing.

(Pub. L. 107-171, title IX, §9002, May 13, 2002, 116 Stat. 476; Pub. L. 109-58, title II, §205, title IX, §943(a)(2)(b), Aug. 8, 2005, 119 Stat. 654, 880, 881.)

AMENDMENTS

2005—Subsecs. (a), (b). Pub. L. 109-58, §943(a)(2)(A), substituted "procuring agency" for "Federal agency".

Subsec. (c)(1). Pub. L. 109-58, §943(a)(2)(A), substituted "procuring agency" for "Federal agency".

Pub. L. 109-58, §205, inserted "or such items that comply with the regulations issued under section 6914b-1 of title 42" after "practicable".

Subsec. (c)(2). Pub. L. 109-58, §943(a)(2)(B), substituted "Flexibility" for "Agency flexibility" in heading and "a procuring agency" for "an agency" and "the procuring agency" for "the agency" in introductory provisions.

Subsec. (d). Pub. L. 109-58, §943(a)(2)(C), substituted "procured by procuring agencies" for "procured by Federal agencies".

Subsec. (f). Pub. L. 109-58, §943(a)(2)(D), substituted "procuring agencies" for "Federal agencies".

Subsecs. (j), (k). Pub. L. 109-58, §943(b), added subsec. (j) and redesignated former subsec. (j) as (k).

PROCEDURE

Pub. L. 109-58, title IX, §943(d), Aug. 8, 2005, 119 Stat. 881, provided that: "Requirements issued under the

amendments made by subsection (b) [amending this section] shall be made in accordance with directives issued by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.”

§ 8103. Biorefinery development grants

(a) Purpose

The purpose of this section is to assist in the development of new and emerging technologies for the use of biomass, including lignocellulosic biomass, so as to—

- (1) develop transportation and other fuels, chemicals, and energy from renewable sources;
- (2) increase the energy independence of the United States;
- (3) provide beneficial effects on conservation, public health, and the environment;
- (4) diversify markets for raw agricultural and forestry products; and
- (5) create jobs and enhance the economic development of the rural economy.

(b) Definitions

In this section:

(1) Advisory Committee

The term “Advisory Committee” means the Biomass Research and Development Technical Advisory Committee established by section 8605 of this title.

(2) Biorefinery

The term “biorefinery” means equipment and processes that—

- (A) convert biomass into fuels and chemicals; and
- (B) may produce electricity.

(3) Board

The term “Board” means the Biomass Research and Development Board established by section 8604 of this title.

(4) Indian tribe

The term “Indian tribe” has the meaning given the term in section 450b of title 25.

(c) Grants

The Secretary shall award grants to eligible entities to assist in paying the cost of development and construction of biorefineries to carry out projects to demonstrate the commercial viability of 1 or more processes for converting biomass to fuels or chemicals.

(d) Eligible entities

An individual, corporation, farm cooperative, association of farmers, national laboratory, institution of higher education (as defined in section 1001 of title 20), State or local energy agency or office, Indian tribe, or consortium comprised of any of those entities shall be eligible to receive a grant under subsection (c) of this section.

(e) Competitive basis for awards

(1) In general

The Secretary shall award grants under subsection (c) of this section on a competitive basis after consulting the Board and Advisory Committee.

(2) Selection criteria

(A) In general

In selecting projects to receive grants under subsection (c) of this section, the Secretary—

- (i) shall select projects based on the likelihood that the projects will demonstrate the commercial viability of a new and emerging process for converting biomass into fuels, chemicals, or energy; and
- (ii) may consider the likelihood that the projects will produce electricity.

(B) Factors

The factors to be considered under subparagraph (A) may include—

- (i) the potential market for the product or products;
- (ii) the level of financial participation by the applicants;
- (iii) the availability of adequate funding from other sources;
- (iv) the beneficial impact on resource conservation, public health, and the environment;
- (v) the participation of producer associations and cooperatives;
- (vi) the timeframe in which the project will be operational;
- (vii) the potential for rural economic development;
- (viii) the participation of multiple eligible entities; and
- (ix) the potential for developing advanced industrial biotechnology approaches.

(f) Cost sharing

(1) In general

The amount of a grant for a project awarded under subsection (c) of this section shall not exceed 30 percent of the cost of the project.

(2) Form of grantee share

(A) In general

The grantee share of the cost of a project may be made in the form of cash or the provision of services, material, or other in-kind contributions.

(B) Limitation

The amount of the grantee share of the cost of a project that is made in the form of the provision of services, material, or other in-kind contributions shall not exceed 25 percent of the amount of the grantee share determined under paragraph (1).

(g) Consultation

In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

(Pub. L. 107–171, title IX, §9003, May 13, 2002, 116 Stat. 478.)

§ 8104. Biodiesel fuel education program

(a) Establishment

The Secretary shall, under such terms and conditions as are appropriate, make competitive

grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

(b) Eligible entities

To receive a grant under subsection (a) of this section, an entity—

(1) shall be a nonprofit organization or institution of higher education (as defined in section 1001 of title 20);

(2) shall have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

(3) shall have demonstrated the ability to conduct educational and technical support programs.

(c) Consultation

In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(d) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$1,000,000 for each of fiscal years 2003 through 2007.

(Pub. L. 107–171, title IX, §9004, May 13, 2002, 116 Stat. 480.)

§ 8105. Energy audit and renewable energy development program

(a) In general

The Secretary shall make competitive grants to eligible entities to carry out a program to assist farmers, ranchers, and rural small businesses in becoming more energy efficient and in using renewable energy technology and resources.

(b) Eligible entities

Entities eligible to carry out a program under subsection (a) of this section are—

(1) a State energy or agricultural office;

(2) a regional or State-based energy organization or energy organization of an Indian tribe (as defined in section 450b of title 25);

(3) a land-grant college or university (as defined in section 3103 of this title) or other institution of higher education (as defined in section 1001 of title 20);

(4) a rural electric cooperative or utility;

(5) a nonprofit organization; and

(6) any other entity, as determined by the Secretary.

(c) Merit review

(1) Merit review process

The Secretary shall establish a merit review process to review applications for grants under subsection (a) of this section that uses the expertise of other Federal agencies, industry, and nongovernmental organizations.

(2) Selection criteria

In reviewing applications of eligible entities to receive grants under subsection (a) of this section, the Secretary shall consider—

(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

(B) the geographic scope of the program proposed by the eligible entity;

(C) the number of farmers, ranchers, and rural small businesses to be assisted by the program;

(D) the potential for energy savings and environmental and public health benefits resulting from the program; and

(E) the plan of the eligible entity for educating farmers, ranchers, and rural small businesses on the benefits of energy efficiency and renewable energy development.

(d) Use of grant funds

(1) Required uses

A recipient of a grant under subsection (a) of this section shall use the grant funds to conduct and promote energy audits for farmers, ranchers, and rural small businesses to provide farmers, ranchers, and rural small businesses recommendations on how to improve energy efficiency and use renewable energy technology and resources.

(2) Permitted uses

In addition to the uses described in paragraph (1), a recipient of a grant may use the grant funds to make farmers, ranchers, and rural small businesses aware of, and ensure that they have access to—

(A) financial assistance under section 8106 of this title; and

(B) other Federal, State, and local financial assistance programs for which farmers, ranchers, and rural small businesses may be eligible.

(e) Cost sharing

A recipient of a grant under subsection (a) of this section that conducts an energy audit for a farmer, rancher, or rural small business under subsection (d)(1) of this section shall require that, as a condition of the energy audit, the farmer, rancher, or rural small business pay at least 25 percent of the cost of the audit.

(f) Use of cost-share funds

Funds collected by a recipient of a grant under subsection (e) of this section as a result of activities carried out using the grant funds shall be used to conduct activities authorized under this section, as approved by the Secretary.

(g) Consultation

In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(h) Reports

Not later than 4 years after May 13, 2002, the Secretary shall submit to Congress a report on the implementation of this section.

(i) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

(Pub. L. 107–171, title IX, §9005, May 13, 2002, 116 Stat. 480.)

§ 8106. Renewable energy systems and energy efficiency improvements

(a) In general

In addition to exercising authority to make loans and loan guarantees under other law, the

Secretary shall make loans, loan guarantees, and grants to farmers, ranchers, and rural small businesses to—

- (1) purchase renewable energy systems; and
- (2) make energy efficiency improvements.

(b) Eligibility

To be eligible to receive a grant under subsection (a) of this section, a farmer, rancher, or rural small business shall demonstrate financial need as determined by the Secretary.

(c) Cost sharing

(1) In general

(A) Grants

The amount of a grant shall not exceed 25 percent of the cost of the activity funded under subsection (a) of this section.

(B) Maximum amount of combined grant and loan

The combined amount of a grant and loan made or guaranteed shall not exceed 50 percent of the cost of the activity funded under subsection (a) of this section.

(2) Factors

In determining the amount of a grant or loan, the Secretary shall take into consideration, as applicable—

- (A) the type of renewable energy system to be purchased;
- (B) the estimated quantity of energy to be generated by the renewable energy system;
- (C) the expected environmental benefits of the renewable energy system;
- (D) the extent to which the renewable energy system will be replicable;
- (E) the amount of energy savings expected to be derived from the activity, as demonstrated by an energy audit comparable to an energy audit under section 8105 of this title;
- (F) the estimated length of time it would take for the energy savings generated by the activity to equal the cost of the activity; and
- (G) other factors as appropriate.

(d) Interest rate

(1) In general

A loan made by the Secretary under subsection (a) of this section shall bear interest at the rate equivalent to the rate of interest charged on Treasury securities of comparable maturity on the date the loan is approved.

(2) Duration

The interest rate for each loan will remain in effect for the term of the loan.

(e) Consultation

In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(f) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$23,000,000 for each of fiscal years 2003 through 2007.

(Pub. L. 107–171, title IX, §9006, May 13, 2002, 116 Stat. 482.)

§ 8107. Hydrogen and fuel cell technologies

(a) In general

The Secretary and the Secretary of Energy shall enter into a memorandum of understanding under which the Secretary and the Secretary of Energy shall cooperate in the application of hydrogen and fuel cell technology programs for rural communities and agricultural producers.

(b) Dissemination of information

Under the memorandum of understanding, the Secretary shall work with the Secretary of Energy to disseminate information to rural communities and agricultural producers on potential applications of hydrogen and fuel cell technologies.

(Pub. L. 107–171, title IX, §9007, May 13, 2002, 116 Stat. 483.)

§ 8108. Continuation of bioenergy program

(a) Definitions

In this section:

(1) Bioenergy

The term “bioenergy” means—

- (A) biodiesel; and
- (B) fuel grade ethanol.

(2) Biodiesel

The term “biodiesel” means a monoalkyl ester that meets the requirements of an appropriate American Society for Testing and Materials standard.

(3) Eligible commodity

The term “eligible commodity” means—

- (A) wheat, corn, grain sorghum, barley, oats, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard, crambe, sesame seed, and cottonseed;
- (B) a cellulosic commodity (such as hybrid poplar and switch grass);
- (C) fats, oils, and greases (including recycled fats, oils, and greases) derived from an agricultural product; and
- (D) any animal byproduct (in addition to oils, fats, and greases) that may be used to produce bioenergy, as determined by the Secretary.

(4) Eligible producer

The term “eligible producer” means a producer that uses an eligible commodity to produce bioenergy.

(b) Bioenergy Program

(1) Continuation

The Secretary shall continue the program under part 1424 of title 7, Code of Federal Regulations (or any successor regulation), under which the Secretary makes payments to eligible producers to encourage increased purchases of eligible commodities for the purpose of expanding production of such bioenergy and supporting new production capacity for such bioenergy.

(2) Contracts

To be eligible to receive a payment, an eligible producer shall—

(A) enter into a contract with the Secretary to increase bioenergy production for 1 or more fiscal years; and

(B) submit to the Secretary such records as the Secretary may require as evidence of increased purchase and use of eligible commodities for the production of bioenergy.

(3) Payment

(A) In general

Under the program, the Secretary shall make payments to eligible producers, based on the quantity of bioenergy produced by the eligible producer during a fiscal year that exceeds the quantity of bioenergy produced by the eligible producer during the preceding fiscal year.

(B) Payment rate

(i) Producers of less than 65,000,000 gallons

An eligible producer that produces less than 65,000,000 gallons of bioenergy shall be reimbursed 1 feedstock unit for every 2.5 feedstock units of eligible commodity used for increased production.

(ii) Producers of 65,000,000 or more gallons

An eligible producer that produces 65,000,000 or more gallons of bioenergy shall be reimbursed 1 feedstock unit for every 3.5 feedstock units of eligible commodity used for increased production.

(C) Quarterly payments

The Secretary shall make payments to an eligible producer for each quarter of the fiscal year.

(4) Proration

If the amount made available for a fiscal year under subsection (c) of this section is insufficient to allow the payment of the amount of the payments that eligible producers (that apply for the payments) otherwise would receive under this subsection, the Secretary shall prorate the amount of the funds among all such eligible producers.

(5) Overpayments

If the total amount of payments that an eligible producer receives for a fiscal year under this section exceeds the amount that the eligible producer should have received under this subsection, the eligible producer shall repay the amount of the overpayment to the Secretary, with interest (as determined by the Secretary).

(6) Limitation

No eligible producer shall receive more than 5 percent of the total amount made available under subsection (c) of this section for a fiscal year.

(7) Other requirements

To be eligible to receive a payment under this subsection, an eligible producer shall meet other requirements of Federal law (including regulations) applicable to the production of bioenergy.

(c) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

(1) not more than \$150,000,000 for each of fiscal years 2003 through 2006; and

(2) \$0 for fiscal year 2007.

(Pub. L. 107-171, title IX, §9010, May 13, 2002, 116 Stat. 485.)

§ 8109. Research, extension, and educational programs on biobased energy technologies and products

(a) Purposes

The purposes of the programs established under this section are—

(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

(b) Definitions

In this section:

(1) Land-grant colleges and universities

The term “land-grant colleges and universities” means—

(A) 1862 Institutions (as defined in section 7601 of this title);

(B) 1890 Institutions (as defined in section 7601 of this title) and West Virginia State College; and

(C) 1994 Institutions (as defined in section 7601 of this title).

(2) Secretary

The term “Secretary” means the Secretary of Agriculture.

(c) Establishment

To carry out the purposes described in subsection (a) of this section, the Secretary shall establish programs under which—

(1) the Secretary shall provide grants to sun grant centers specified in subsection (d) of this section; and

(2) the sun grant centers shall use the grants in accordance with this section.

(d) Grants to centers

The Secretary shall use amounts made available for a fiscal year under subsection (j) of this section to provide a grants in equal amounts to each of the following sun grant centers:

(1) North-central center

A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

(2) Southeastern center

A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

(B) the Commonwealth of Puerto Rico; and
(C) the United States Virgin Islands.

(3) South-central center

A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

(4) Western center

A western sun grant center at Oregon State University for the region composed of—

(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

(5) Northeastern center

A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

(e) Use of funds

(1) Centers of excellence

Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d) of this section, the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) of this section through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

(2) Grants to land-grant colleges and universities

(A) In general

The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a) of this section, multiinstitutional and multistate—

(i) research, extension, and educational programs on technology development; and

(ii) integrated research, extension, and educational programs on technology implementation.

(B) Programs

Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

(3) Indirect costs

A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

(f) Plan

(1) In general

Subject to the availability of funds under subsection (j) of this section, in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e) of this section.

(2) Gasification coordination

(A) In general

In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) of this section shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

(B) Funding

Funds made available under subsection (d) of this section to the sun grant center identified in subsection (e)(2) of this section shall be available to carry out planning coordination under paragraph (1) of this subsection.

(g) Grants to other land-grant colleges and universities

(1) Priority for grants

In making grants under subsection (e)(2) of this section, a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f) of this section.

(2) Term of grants

The term of a grant provided by a sun grant center under subsection (e)(2) of this section shall not exceed 5 years.

(h) Grant information analysis center

The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) of this section to provide sun grant centers analysis and data management support.

(i) Annual reports

Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d) of this section, the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the

center during the year, including a description of progress made in facilitating the priorities described in subsection (f) of this section.

(j) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section—

- (A) \$25,000,000 for fiscal year 2005;
- (B) \$50,000,000 for fiscal year 2006; and
- (C) \$75,000,000 for each of fiscal years 2007 through 2010.

(2) Grant information analysis center

Of amounts made available under paragraph (1), not more than \$4,000,000 for each fiscal year shall be made available to carry out subsection (h) of this section.

(Pub. L. 107–171, title IX, §9011, as added Pub. L. 108–199, div. A, title VII, §778(b), Jan. 23, 2004, 118 Stat. 41.)

CHAPTER 108—TREE ASSISTANCE PROGRAM

Sec.	
8201.	Definitions.
8202.	Eligibility.
	(a) Loss.
	(b) Limitation.
8203.	Assistance.
8204.	Limitations on assistance.
	(a) Amount.
	(b) Acres.
	(c) Regulations.
8205.	Authorization of appropriations.

§ 8201. Definitions

In this chapter:

(1) Eligible orchardist

The term “eligible orchardist” means a person that produces annual crops from trees for commercial purposes.

(2) Natural disaster

The term “natural disaster” means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, and other occurrence, as determined by the Secretary.

(3) Secretary

The term “Secretary” means the Secretary of Agriculture.

(4) Tree

The term “tree” includes a tree, bush, and vine.

(Pub. L. 107–171, title X, §10201, May 13, 2002, 116 Stat. 490.)

§ 8202. Eligibility

(a) Loss

Subject to subsection (b) of this section, the Secretary shall provide assistance under section 8203 of this title to eligible orchardists that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary.

(b) Limitation

An eligible orchardist shall qualify for assistance under subsection (a) of this section only if the tree mortality of the eligible orchardist, as

a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

(Pub. L. 107–171, title X, §10202, May 13, 2002, 116 Stat. 490.)

§ 8203. Assistance

Subject to section 8204 of this title, the assistance provided by the Secretary to eligible orchardists for losses described in section 8202 of this title shall consist of—

- (1) reimbursement of 75 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or
- (2) at the option of the Secretary, sufficient seedlings to reestablish a stand.

(Pub. L. 107–171, title X, §10203, May 13, 2002, 116 Stat. 491.)

§ 8204. Limitations on assistance

(a) Amount

The total amount of payments that a person shall be entitled to receive under this chapter may not exceed \$75,000, or an equivalent value in tree seedlings.

(b) Acres

The total quantity of acres planted to trees or tree seedlings for which a person shall be entitled to receive payments under this chapter may not exceed 500 acres.

(c) Regulations

The Secretary shall promulgate regulations—

- (1) defining the term “person” for the purposes of this chapter, which shall conform, to the maximum extent practicable, to the regulations defining the term “person” promulgated under section 1308 of this title; and
- (2) promulgating such regulations as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

(Pub. L. 107–171, title X, §10204, May 13, 2002, 116 Stat. 491.)

§ 8205. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 107–171, title X, §10205, May 13, 2002, 116 Stat. 491.)

CHAPTER 109—ANIMAL HEALTH PROTECTION

Sec.	
8301.	Findings.
8302.	Definitions.
8303.	Restriction on importation or entry.
	(a) In general.
	(b) Regulations.
	(c) Destruction or removal.
8304.	Exportation.
	(a) In general.
	(b) Requirements of owners.
	(c) Certification.
8305.	Interstate movement.
8306.	Seizure, quarantine, and disposal.
	(a) In general.